



ATLAS 9452 US

**IN THE
UNITED STATES
PATENT AND TRADEMARK OFFICE**

IN RE APPLICATION OF: Braven, Keay, and Flower

CASE: ATLAS 9452 US

**DECLARATION UNDER
37 C.F.R. § 1.132**

SERIAL NO.: 10/562,290

FILED ON: 20 June 2006

FOR: Protease Detection Assay

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

EXAMINER: MARTIN, Paul C.

ART UNIT: 1657

DECLARATION UNDER 37 C.F.R. § 1.132

Sir,


I, John Clarkson, declare as follows:

I, Stephen Flower, declare as follows:

1. I am the CEO of Atlas Genetics, Ltd., of Trowbridge, U.K. Atlas Genetics Ltd. is the assignee of the above-referenced application for patent ('290 application) and assignee of published patent application, US 2005/0221315 A1, herein referred to as "Braven et al.".
- I am one of the named inventors on the above-referenced application for patent.

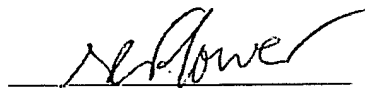
2. Dr Helen Braven and Dr Russell Keay contributed to the disclosure of Braven et al. and are named inventors of Braven et al. in compliance with 37 CFR § 1.63(a)(4) & § 1.75. The subject matter claimed in Braven et al. is drawn to compositions and methods for probing for nucleic acids. I did not contribute to the disclosure of Braven et al., nor do I claim inventorship of the subject matter as claimed in Braven et al., in compliance with 37 CFR § 1.63(a)(4) & § 1.75.
3. Dr Helen Braven, Dr Russell Keay, and Dr Stephen Flower contributed to the disclosure of the '290 application and are named inventors of the '290 application. The subject matter claimed in the '290 application is drawn to compositions and methods for detecting protease activity. I contributed to claims 1-15 and 17 - 18 in the above-referenced application for patent ('290 application) as originally filed and to pending claims 19 - 23 and 25 - 31 in compliance with 37 CFR § 1.63(a)(4) & § 1.75.
4. Dr Flower collaborated with Dr. Braven and Dr. Keay after Braven et al. was originally filed, therefore Dr. Flower could not have contributed to the disclosure of Braven et al. Dr. Flower contributed his knowledge of chemistry to the invention of Dr. Braven and Dr. Keay that resulted in his name as inventor on the '290 application. I did not collaborate with Dr. Braven and Dr. Keay until after Braven et al. was filed in the United States and so was unaware of the subject matter of Braven et al. until that collaboration began. I made contributions to the invention of Dr. Braven and Dr. Keay that resulted in the disclosure and claims of the '290 application.
5. I further conclude that the named inventors of Braven et al. are a subset of the named inventors of the '290 application and therefore the application for patent (Braven et al.) cannot be considered to have been filed by "another" as set forth in 35 U.S.C. § 102(e).

6. The Braven et al. reference therefore is not a prior art anticipating reference as defined by 35 U.S.C. § 102(a) or (e).
7. The Braven et al. reference therefore is not prior art as defined by 35 U.S.C. § 103(a).
8. I further declare that all statements made herein of my knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.



John Clarkson, Ph.D.

Dated: July 24, 2009



Stephen Flower, Ph.D.

Dated: July 24, 2009